HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION Nos.6582 & 6585 OF 1999

DATE:16-11-2006

Between:

M. Balakrishna Murthy

.. Petitioner

AND

Kalva Srinivas & 3 Others

.. Respondents

COMMON ORDER:

These two writ petitions are interrelated, as such they are being disposed of by this common order.

It appears, petitioner and one Madhusudhan Reddy are the members of respondent No.3, Co-operative Housing Society, Malkapur, Hyderabad (hereinafter referred to as "the Society"). Initially, two plots were allotted to the petitioner. However, since the said two plots were acquired by the Government for public purpose, he was allotted plot No.507 admeasuring 200 square yards. To the North of his plot, 200 square yards of land was in excess and it has no approachable road. Plot No.512, which is abutting the said excess land, was allotted to Madhusudhan Reddy. In 1981, a resolution had been passed by the Society that wherever there is

excess land, the same would be allotted to the adjacent landholders. Therefore, the petitioner as well as Madhusudhan Reddy made an application to the Society for allotment of said 200 square yards of excess land to them as the same is abutting their plots. Their applications were rejected on the ground that the said excess land is required for the Society for locating a Post Office, Milk Booth and also a Fair Price Shop. However, the said land was not utilized by the Society for the said purposes. Therefore, the petitioner filed a petition before the Deputy Registrar of Co-operative Societies (Housing), Hyderabad for allotment of the said excess land. Thereafter, after more than six years, on advice, petitioner filed an application under Section 61 of the Co-operative Societies Act, 1964 before the Arbitrator by issuing notices to the respondents. In the meanwhile, plot No.512 was sold away by Madhusudhan Reddy to respondent No.1 herein, Kalva Srinivas. After following the due process of law, the Arbitrator passed award allotting 100 square yards of land each to the petitioner and Madhusudhan Reddy, who is vendor of respondent No.1. Aggrieved by the same, respondent No.1 and the Society filed C.T.A. Nos.404 and 401 of 1994 respectively. The Tribunal disposed of the same remanding the matter to the Arbitrator for fresh consideration. The Arbitrator for the second time through award dated 28-09-1996 allotted entire 200 square yards of land to the petitioner. Aggrieved by the same, respondent No.1 and the Society filed C.T.A. Nos.700 of 1996 and C.T.A. No.31 of 1997 respectively. Both the appeals were

disposed of by a common order dated 13-01-1999 setting aside the award passed by the Arbitrator. Aggrieved by the same, the present writ petitions are filed by the petitioner.

In spite of service of notice, no appearance is made on behalf of respondent No.1 and the Society. It appears, at the first instance, the Arbitrator has rightly allotted 100 square yards of land each to the petitioner and Madhusudhan Reddy, since they are adjacent owners of the same. Now it is given to understand that Srinivas has already raised structures on 100 square yards of excess land adjacent to his plot, whereas the petitioner has raised certain structures and dug a well in the excess land allotted to him. Thus, the said 200 square yards of excess land is equally shared and enjoyed by the petitioner and respondent No.1 separately and it is divided by a regular compound wall.

In view of the above, I am of the opinion that both the petitioner as well as respondent No.1 are entitled to enjoy 100 square yards of land each, which is in their actual possession as of now.

With the above modification in the award in C.T.A. Nos.700 of 1996 and 31 of 1997, the Writ Petitions are disposed of. No order as to costs.

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C.V. RAMULU, J

Date:16-11-2006.

NOTE:

After signing of this common order by CVR,J and after dispatching the same, CVR,J directs the Office to place one copy each of this common order in the respective original bundle of each application (which are disposed of by this common order) for ready reference and record purpose.

(B/O)

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